

contents was not plainly and conspicuously marked on the outside of the package, since the statement made was not correct.

On March 29, 1935, a plea of guilty was entered on behalf of the defendant company and the court imposed a fine of \$200.

M. L. WILSON, *Acting Secretary of Agriculture.*

24365. Adulteration and misbranding of tomato paste. U. S. v. Italian Food Products Co., Inc. Plea of nolo contendere. Fine, \$90. (F. & D. no. 33852. Sample no. 69759-A.)

This case involved quantities of a product sold as tomato paste. Examination showed that it contained insufficient tomato solids to be described as tomato paste, and that it contained excessive mold.

On February 7, 1935, the United States attorney for the Southern District of California, acting upon a report by the Secretary of Agriculture, filed in the district court an information against the Italian Food Products Co., Inc., Long Beach, Calif., alleging shipment by said company in violation of the Food and Drugs Act, on or about December 4, 1933, and January 31, 1934, from the State of California into the State of New York of quantities of tomato paste which was adulterated and misbranded. The article was labeled in part: "Campania Brand * * * Concentrated Tomato Paste Salsa di Pomodoro Concentrata Nel Vuoto Qualita Finissima Packed By Italian Food Products Co. Inc. Long Beach, California."

The article was alleged to be adulterated in that a substance deficient in tomato solids had been substituted for concentrated tomato paste, which the article purported to be, and in that it consisted in part of a decomposed vegetable substance.

Misbranding was alleged for the reason that the statements "Concentrated Tomato Paste", "Concentrata Nel Vuoto", and "Qualita Finissima", borne on the labels, were false and misleading, and for the further reason that the article was labeled so as to deceive and mislead the purchaser, in that the said statements represented that the article was concentrated tomato paste of fine quality; whereas it was not, but was a product deficient in tomato solids consisting in part of a decomposed vegetable substance. Misbranding was alleged for the further reason that the article was offered for sale under the distinctive name of another article, namely, concentrated tomato paste.

On March 4, 1935, a plea of nolo contendere was entered on behalf of the defendant company and the court imposed a fine of \$90.

M. L. WILSON, *Acting Secretary of Agriculture.*

24366. Adulteration and misbranding of chocolate-covered cherries and cordial cherries. U. S. v. the Sphinx Chocolate Corporation. Plea of guilty. Fine, \$300. (F. & D. no. 33853. Sample nos. 51628-A, 51679-A, 66232-A.)

This case was based on an interstate shipment of chocolate-covered grapes which were labeled to convey the impression that they were cherries, and which were artificially colored and flavored in imitation of maraschino cherries. The case also covered a shipment of cordial cherries which contained artificial color, artificial flavor, and benzoate of soda.

On December 10, 1934, the United States attorney for the Eastern District of New York, acting upon a report by the Secretary of Agriculture, filed in the district court an information against the Sphinx Chocolate Corporation, Brooklyn, N. Y., alleging shipment by said company in violation of the Food and Drugs Act, on or about October 5, 1933, from the State of New York into the State of New Jersey of a quantity of cordial cherries which were adulterated and misbranded, and on or about November 14, 1933; and January 8, 1934, from the State of New York into the States of Connecticut and New Jersey, respectively, of quantities of alleged chocolate-covered cherries which were adulterated and misbranded. The cordial cherries were labeled: "Sphinx Cordial Cherries Net Weight One Pound", together with designs showing clusters of red, ripe cherries. A portion of the alleged chocolate-covered cherries were labeled: "Cherry Blossom Chocolate Covered * * * Manufactured By Sphinx Chocolate Corporation Brooklyn, N. Y. [on end and side of box in smaller size type "Artificially Colored And Flavored"]", together with designs of clusters of large, red, ripe cherries. The remainder of the alleged chocolate-covered cherries were labeled: "Cherry Blossom Chocolate Covered * * *

Manufactured By Sphinx Chocolate Corporation Brooklyn, N. Y. [in smaller type, "Imported Italian Cherries—Artificially Colored and Flavored]", together with designs of clusters of red, ripe cherries.

The cordial cherries were alleged to be adulterated in that artificial color, artificial flavor, and benzoate of soda had been substituted in part for the said article. The alleged chocolate-covered cherries were alleged to be adulterated in that grapes artificially colored and flavored in imitation of maraschino cherries had been mixed and packed with the article so as to reduce, lower, and injuriously affect its quality, and in that chocolate-covered grapes artificially colored and flavored in imitation of maraschino cherries had been substituted for chocolate-covered maraschino cherries, which the article purported to be.

Misbranding of the cordial cherries was alleged for the reason that the statement "Cordial Cherries" together with the designs of clusters of red, ripe cherries borne on the label, was false and misleading, and for the further reason that the article was labeled so as to deceive and mislead the purchaser since the said statements and designs represented that the article consisted solely of cordial cherries; whereas it did not, but did consist in part of added undeclared benzoate of soda and artificial color and artificial flavor. Misbranding of the alleged chocolate-covered cherries was alleged in that the statement "Cherry * * * Chocolate Covered" with respect to a portion of the article, the statement "Cherry * * * Chocolate Covered * * * Imported Italian Cherries" with respect to the remainder, and the designs appearing on the labels of both lots of red, ripe cherries were false and misleading; and for the further reason that the article was labeled so as to deceive and mislead the purchaser in that the said statements represented that the article was chocolate-covered maraschino cherries, and in respect to a portion that it had been imported from Italy; whereas it was not chocolate-covered maraschino cherries, but consisted of grapes artificially colored and flavored in imitation of maraschino cherries, and the said portion had not been imported from Italy. Misbranding was alleged with respect to both lots for the further reason that the article was an imitation of another article and was offered for sale under the distinctive name of another article, namely, chocolate-covered maraschino cherries.

On February 6, 1935, a plea of guilty was entered on behalf of the defendant company and the court imposed a fine of \$300.

M. L. WILSON, *Acting Secretary of Agriculture.*

24367. Adulteration and misbranding of graham crackers. U. S. v. Superior Biscuit Co. Plea of guilty. Fine, \$50 and costs. (F. & D. no. 33860. Sample nos. 45479-A, 45480-A, 45481-A.)

This case was based on a shipment of alleged milk and honey-sweetened graham crackers. Examination showed that the article contained little or no milk or honey, and that the packages contained less than the declared weight.

On December 4, 1935, the United States attorney for the Western District of Washington, acting upon a report by the Secretary of Agriculture, filed in the district court an information against the Superior Biscuit Co., a corporation, Seattle, Wash., alleging shipment by said company in violation of the Food and Drugs Act as amended, on or about January 27, 1934, from the State of Washington into the State of California, of quantities of graham crackers which were adulterated and misbranded. A portion of the article was labeled: "Oven-Fresh Milk and Honey Sweetened Graham Crackers Contents 2 Pounds Western States Grocery Co." The remainder was labeled: "Milk and Honey Sweetened Eat Superior Red Star Graham Crackers Superior Biscuit Co. U. S. A."

The article was alleged to be adulterated in that a product deficient in milk and honey and having no flavor of either milk or honey and sweetened almost entirely with substances other than milk and honey, had been substituted for graham crackers sweetened with milk and honey, which the article purported to be.

Misbranding was alleged for the reason that the statements "Contents 2 Pounds" and "Milk and Honey Sweetened," were false and misleading, and for the further reason that the article was labeled so as to deceive and mislead the purchaser, since the packages did not contain 2 pounds of the article, but did contain a less amount, and the article was not graham crackers sweetened solely with milk and honey, but was a product deficient in milk and honey having no flavor of either milk or honey and sweetened almost entirely